

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK**

IN RE EASTMAN KODAK ERISA  
LITIGATION

THIS DOCUMENT RELATES TO:  
ALL ACTIONS

MASTER FILE No. 6:12-CV-06051-DGL

**REQUEST FOR ORAL ARGUMENT**

**KODAK DEFENDANTS' NOTICE OF MOTION TO DISMISS**

Defendants Kodak Stock Ownership Plan Committee ("SOPCO") and Kodak Savings and Investment Plan Committee ("SIPCO"), along with Frank S. Sklarsky, Antoinette P. McCorvey, Robert L. Berman, William G. Love, Patricia A. Obstarczyk, Joyce P. Haag, and Laura G. Quatela (the "Individual Defendants," collectively with SOPCO and SIPCO, the "Kodak Defendants"), move to dismiss the Consolidated Complaint because plaintiffs have failed to allege facts sufficient to plausibly suggest that (1) it was imprudent to maintain the Kodak Employee Stock Ownership Plan; (2) it was imprudent to maintain the Kodak Stock Fund as an investment option in the Kodak Savings and Investment Plan; or (3) any Kodak Defendant should be held liable as a co-fiduciary. The Kodak Defendants' grounds for their Motion to Dismiss are set forth in detail in their accompanying Memorandum of Law.<sup>1</sup>

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<sup>1</sup> Although plaintiffs did not name Antonio M. Perez, the Chief Executive Officer of Eastman Kodak during the putative class period, as a defendant (*see* Consolidated Complaint ¶¶ 24–40), they occasionally refer to him in their Consolidated Complaint as "Defendant Perez." *See id.* ¶¶ 116, 120, 121. The Kodak Defendants assume that this is a mistaken vestige of earlier complaints, and that, based upon conversations with plaintiffs' lead counsel, only members of SIPCO and SOPCO and the Committees are intended defendants. In any event, the Consolidated Complaint makes no allegations that Mr. Perez exercised any fiduciary responsibilities for either Plan. To the extent that plaintiffs intend to bring their claims against Mr. Perez, he, too, joins in the Motion to Dismiss of the Kodak Defendants.

**Request for Oral Argument**

The Kodak Defendants intend to file and serve reply papers. They also request oral argument and estimate that one hour would be appropriate for all parties.

Dated: October 29, 2012

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